

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on January 10, 2005, the Examiner objected to the disclosure and to claims 26-30. The Examiner also rejected claim 11 under 35 U.S.C. 112, second paragraph, rejected claims 1-5, 7, 10-13 and 16 under 35 U.S.C. 102(e) as being anticipated by Unrein (United States Patent No. 6,490,157, hereinafter "Unrein"), and rejected claims 6, 15 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over Unrein. In addition, the Examiner objected to claims 8-9, 14 and 26-30, but indicated that claims 8-9, 14 and 26-30 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicant respectfully provides the following:

Objections to the Specification and Claims

In the Office Action, the Examiner objected to the disclosure and to claims 26-30. Applicant respectfully submits that the amendments provided herein provide appropriate correction and overcome the objections made by the Examiner.

Rejections under 35 U.S.C. 112, second paragraph

In the Office Action, the Examiner rejected claim 11 under 35 U.S.C. 112, second paragraph. Applicant respectfully submits that the amendments provided herein overcome the rejection made by the Examiner.

Rejections under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 1-5, 7, 10-13 and 16 under 35 U.S.C. 102(e) as being anticipated by Unrein. Applicant respectfully submits that the claim set as provided herein is not anticipated by the cited references.

The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

“... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.”

Applicants respectfully submit that the cited references do not teach every aspect of the amended claim set as provided herein and therefore do not anticipate the claims of the present invention. In particular, the Examiner indicated in the Office Action that claims 14 and 26 were objected to, but would be allowable if rewritten. Applicant respectfully submits that claims 14 and 26 have been written in independent form including all of the limitations of the base claim and any intervening claims, and therefore are not anticipated by the cited reference. Similarly, Applicant respectfully submits that the corresponding dependent claims, which depend from claim 14 or claim 26 are not anticipated by the cited reference.

#### Rejections under 35 U.S.C. 103

In the Office Action, the Examiner rejected claims 6, 15 and 17-20 under 35 U.S.C. 103(a) as being unpatentable over Unrein. Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references.

The standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the reference cited by the Examiner does not teach or suggest the limitations claimed in the present invention. In particular, the Examiner indicated in the Office Action that claims 14 and 26 were objected to, but would be allowable if rewritten. Applicant respectfully submits that claims 14 and 26 have been written in independent form including all of the limitations of the base claim and any intervening claims, and therefore are not made obvious by the cited reference. Similarly, Applicant respectfully submits that the corresponding dependent claims, which depend from claim 14 or claim 26 are not made obvious by the cited reference.

Additionally, Applicant respectfully submits that the statement of reasons for the indication of allowable subject matter as provided by the Examiner in the Office Action does not fully encompass the entire scope of the claims.

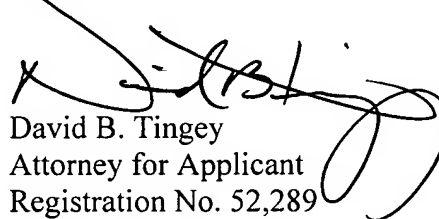
Applicant respectfully submits that for at least the reasons provided herein, all objections and rejections made by the Examiner in the Office Action are overcome.

CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicants request favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 11<sup>th</sup> day of April, 2005.

Respectfully submitted,



David B. Tingey  
Attorney for Applicant  
Registration No. 52,289

KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 328-3600  
Facsimile: (801) 321-4893

DBT/lc  
814577.1